

Serial No.: 10/510,917

IN THE DRAWINGS

Replace Figs. 19A-20B with the attached replacement sheets.

REMARKS

Claims 1-50, as amended, remain herein. Claims 1-23 are presently withdrawn from consideration.

Applicants thank the Examiner for acknowledging that claims 42 and 43 contain allowable subject matter.

1. Figs. 19A-20B have been replaced, mooted the objection thereto.
2. The abstract and specification have been amended, mooted the objections thereto.
3. Claims 24-50 have been amended, mooted the rejections thereto under 35 U.S.C. § 112, second paragraph.
4. Claims 26-41 and 44-50 were rejected under 35 U.S.C. § 102(e) over Pugh U.S. Patent Application Publication 2003/0116583. Pugh discloses a device for dispensing biosensors. The biosensors are stacked in a cartridge and individually ejected from the device.

Pugh fails to disclose a sensor ejecting port located in a wall of the cartridge facing tips of the biosensors and being closed except when such biosensors are ejected. The cartridge 84 of Pugh has no ejecting port in a wall facing the tips of the biosensors. Rather, the entire cartridge of Pugh drops down to allow a biosensor to exit.

Pugh fails to disclose an ejecting means in the cartridge. Applicants' specification discloses a rotating part and a sliding part inside the cartridge that apply pressure to a rear surface of a biosensor to eject the biosensor from the cartridge. No element within the cartridge in Pugh performs such a function.

Pugh further fails to disclose a driving mechanism for driving the sensor ejecting means in the biosensor cartridge. As discussed above, Pugh fails to disclose an ejecting means, and no part of the device in Pugh drives a corresponding ejecting part in the cartridge. Since Pugh fails to disclose every element of applicants' claim 24, Pugh is an inadequate grounds for rejecting claim 24 under 35 U.S.C. § 102(e).

Regarding claim 27, Pugh fails to disclose a biosensor cartridge comprising a rotating member and a sliding member. The Office Action cites gear 136 as a rotating member and sliding member 73 as the sliding member. However, neither gear 136 or sliding member 73 of Pugh is part of the biosensor cartridge 84. According to applicants' claim 27, the rotating member and sliding member are part of the cartridge, and a rotating means is part of the driving mechanism to drive the rotating member. Such a configuration is impossible in Pugh, because the gear is fixed to the device wall and the sliding member slides from behind the cartridge to push on a biosensor.

Regarding claim 28, Pugh fails to disclose an operating part that is biased to exit the device body, and that when it is moved into the device body, it actuates a driving mechanism. The slide member 71 of Pugh rests on the outside of the device body at all times, and is biased to move in one direction along the outside of the device body.

Regarding claim 29, Pugh fails to disclose that a biosensor is ejected in a direction opposite the direction of pushing the operating part into the device body. Rather, in Pugh, the biosensor is ejected in the same direction that the slide member 71 is pushed, and slide member 71 is never pushed into the device body.

Regarding claim 30, Pugh fails to disclose valve means for opening the sensor ejecting port of the biosensor cartridge. The Office Action cites seals 97 as being “valve means”. However, unlike applicants’ valve means which blocks an opening then moves from the opening to allow passage of the biosensors while the cartridge 25 stays stationary, the seals 97 of Pugh are attached to the cartridge and seal the cartridge against the casing and are removed from the casing when the slide member is actuated. The function of the seals 97 are not substantially the same or performed in substantially the same way as applicants’ claimed valve means.

Regarding claim 31, Pugh fails to disclose a roller rolling over the exterior surface of the biosensor cartridge. The seals 97 of Pugh press against the inside surface of the device and are linearly removed from the inside surface with a downward movement. At no time do they perform any rolling motion. Further, they are glued to the cartridge, so they cannot roll over an exterior surface of the cartridge. See Pugh, para. 43.

Regarding claim 33, Pugh fails to disclose connecting members, supported by the device body, connected at one end to the sensor conducting means and the valve means, respectively, and connected at the other end to a cam on the operating part, said cam for holding and turning the other end of each connecting member. No elements recited in Pugh connect the sensor conducting means and the valve means, respectively, to a cam on the operating part. Nor does such a cam turn any such connecting member.

Regarding claims 39 and 40, Pugh fails to disclose detection means for detecting a return of the operating part to a fully extended position outside the device body. The Office Action asserts that electrodes 122 are capable of detecting the return of the operating part to the initial position. However, electrodes 122 are stationary and are for applying and measuring an electric charge across a test strip. They have no connection to the sliding member 71.

Regarding claim 41, Pugh fails to disclose connection switching means for connecting or releasing connection of the driving mechanism with the sensor ejection means corresponding to a closed or open state, respectively, of a lid body of the cartridge storing chamber. Pugh contains no element that causes a driving mechanism in the device body to disconnect from an ejection means in the cartridge when a lid body is open, and to connect to the ejection means when the lid body is closed.

Regarding claim 46, Pugh fails to disclose that the operating part electrically operates the driving mechanism. The sliding member 71 does not electrically operate any mechanism.

Regarding claim 48, Pugh fails to disclose a pushing member of the driving mechanism that is biased towards a sliding member of the biosensor cartridge. Further, Pugh fails to disclose a detection means that detects an operation stroke of the pushing member.

Regarding claim 50, Pugh fails to disclose a driving mechanism that is independently operable from a sensor conveying mechanism. In Pugh, the sliding member 71 is the same as the sensor conveying mechanism.

Accordingly, all claims 24-50 are now fully in condition for allowance and a notice to that effect is respectfully requested. The PTO is hereby authorized to charge/credit any fee deficiencies or overpayments to Deposit Account No. 19-4293. If further amendments would

place this application in even better condition for issue, the Examiner is invited to call applicant's undersigned attorney at the number listed below.

Respectfully submitted,

STEPTOE & JOHNSON LLP

Date: June 6, 2008

A handwritten signature in black ink, appearing to read "Roger W. Parkhurst", written over a horizontal line.

Roger W. Parkhurst

Reg. No. 25,177

Adam C. Ellsworth

Reg. No. 55,152

STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Tel: 202-429-3000
Fax: 202-429-3902

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